



September 9, 2008

The Honorable Harry Reid
Senate Majority Leader
United States Senate
528 Hart Senate Office Building
Washington, DC 20510

Dear Senator Reid:

I understand that you are currently considering the Securing Adolescents From Exploitation-Online (SAFE) Act of 2007. On behalf of the National Center for Missing & Exploited Children (NCMEC), I would like to provide you with some background on the Act and the issues it addresses. We are convinced that this important piece of legislation will increase the number of investigations and prosecutions of Internet crimes against children by improving the reports made to NCMEC's congressionally mandated CyberTipline.

We have been asked by several Senate offices to communicate directly why we believe this legislation is so important. As you know, at the request of Congress, NCMEC created the CyberTipline in 1998 to serve as a central reporting mechanism for child sexual exploitation, a "911 for the Internet." Despite the fact that the Supreme Court held in 1982 that child pornography is not protected speech under the Constitution, it continues to be distributed on a global scale, aided by the Internet. To address this problem, Congress passed the Department of Justice Appropriations Act, 2000 (codified at 42 U.S.C. §13032(b)(1)), which requires electronic communication service providers and remote computing service providers to report apparent child pornography on their systems to the CyberTipline. In order to protect the constitutional rights of users, Congress specified that these entities are not required to proactively monitor their systems for the presence of child pornography. Rather, they must make a report to the CyberTipline only when they become aware of apparent child pornography on their systems.

To date, the CyberTipline has received 623,500 reports in the following categories of crimes: possession, manufacture, and distribution of child pornography; online enticement of children for sexual acts; child prostitution; child-sex tourism; child sexual molestation (not in the family); unsolicited obscene material sent to a child; and misleading domain names. At present, 496 electronic communication service providers and remote computing service providers make reports to the CyberTipline via a secure reporting form. The reports are reviewed by NCMEC analysts, who examine and evaluate the content, add related information that would be useful to law enforcement, use publicly-available search tools to determine the geographic location of the apparent criminal act, and provide all information to the appropriate law enforcement agency for investigation. The FBI, U.S. Immigration and Customs Enforcement, and U.S. Postal Inspection Service have "real time" access to the CyberTipline, and all three agencies assign agents and analysts to conduct their investigations of these crimes on-site at NCMEC.

The SAFE Act has its genesis in the numerous 2006 hearings in both the House and Senate regarding the online exploitation of children. After it was introduced in early 2007, the staff of Senators Schumer and McCain worked closely with NCMEC, a representative from the Internet industry, federal law enforcement, and House Judiciary Committee staff on amendments to the bill. This amended version of the bill passed the House by a wide margin (409-2) in December 2007.

The SAFE Act will make significant improvements to the 10-year-old reporting statute. The SAFE Act moves this mandate from Title 42 to Title 18 of the U.S. Code, providing a strong incentive for those companies which are not currently making these reports to comply with the law. In addition, it specifies that all reports made to the CyberTipline must contain specific information, resulting in greater consistency. This provision will also make it easier for NCMEC analysts to identify the geographic location associated with the reported Internet activity, enabling us to more efficiently forward these reports to the law enforcement agency with jurisdiction to investigate. The SAFE Act also provides qualified immunity for the entities making these reports to the CyberTipline, eliminating concerns that they could be charged with violating the law by forwarding contraband. Currently, NCMEC is permitted by law to forward these reports only to designated U.S. law enforcement agencies. However, because foreign citizens often post child pornography on servers located in the United States, many investigations must be conducted by law enforcement agencies in other countries. The SAFE Act would permit NCMEC to refer CyberTipline reports to foreign law enforcement designated by the Attorney General.

The 2006 hearings made it clear that the problem of online exploitation of children requires a multi-faceted approach. Congress recognizes that while the priority should be on investigations and prosecutions, the proliferation of child pornography on the Internet can be slowed by working with the Internet industry on alternative solutions. The SAFE Act contains a provision that allows NCMEC to share 'elements of an image' with electronic communication service providers so that they may prevent the further transmission of these images over their networks. This is a practical approach that will help decrease the availability of images of sexually exploited children, helping to reduce the further exploitation of these victims.

We know that you understand the importance of improving the tools that can be utilized to prevent child victimization. NCMEC's CyberTipline is one such tool, and this legislation will significantly improve its efficiency. Please don't hesitate to contact me or my staff if you need additional information. Thank you for your continued efforts on behalf of children.

Sincerely,

A handwritten signature in black ink, appearing to read "Ernie Allen". The signature is fluid and cursive, with the first name "Ernie" and last name "Allen" clearly distinguishable.

Ernie Allen
President and CEO